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March 26, 2013

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By Electronic Filing

Ms. Marlene H. Dortch, Secretary Federal Communications Commission 445 12th Street, SW Room TW-A345 Washington, DC 20054

Re: Notice Ex Parte Communication; CGB Docket No. 02-278; Club

Texting, Inc. Petition for Declaratory Ruling that Text Broadcasters Are Not Senders of Text Messages Under § 227(b)(1) of the Telephone Consumer Protection Act

Dear Ms Dortch:

On March 25, 2013, Shane Neman of Club Texting, Inc.("Club Texting") and the undersigned conducted an *ex parte* meeting with the following representatives of the Consumer and Governmental Affairs Bureau: Mark Stone, John B. Adams, Deborah Broderson, Kristi Lemoine, and Kurt Schroeder.

During the meeting, Club Texting urged that the Commission grant its petition for declaratory ruling in the above-referenced proceeding. Club Texting noted that increasingly text broadcasters are being sued in federal court for alleged violations of the Telephone Consumer Protection Act, even though they are not "senders" of text messages under § 227(b)(1). Examples of such litigation include: *Rutherford v. Zoom Tan Inc.*, No 2:121-cv-00509-JES-DNF (M.D. Fla. Filed Sept. 13, 2012); *Glausner v. Twilio, Inc.*, No. 4:11-cv-02584-PJH (N.D. Cal. filed May 27, 2011) (primary jurisdiction referral pending before the Commission); and *Pimental v. Google, Inc.*, No. 4:11-cv-02585 YGR (N.D. Cal. filed May 27, 2011).

If you have any questions or need additional information, please contact me.

Respectfully submitted,

Michael B. Hazzard

Counsel to Club Texting, Inc.

Arent Fox

Ms. Marlene H. Dortch, Secretary Page 2

cc: By Electronic Mail

Mark Stone John B. Adams Deborah Broderson Kristi Lemoine Kurt Shroeder